

REMARKS

This is a full and timely response to the non-final Office Action mailed August 17, 2009. The Applicants have amended claims 1 – 4, 6, 8, 9, 11, 13 and 15 - 21. Upon entry of the above amendments, claims 1 – 4, 6, 8 – 11, 13, and 15 – 23 remain pending. The Applicants respectfully request that the application and all pending claims be reconsidered and allowed.

I. Petition for Extension of Time

Pursuant to 37 C.F.R. § 1.136(a), the Applicants hereby petition for an extension of time of one month, extending the time for responding to the non-final Office Action mailed August 17, 2009 to December 17, 2009. The Applicant submits herewith a Petition for Extension of Time and a credit card payment of \$130.00 for the large entity statutory fee for the one-month extension of time.

II. Rejection Under 35 U.S.C. 101

The Office Action rejects claims 11, 13 and 15 - 20 under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter because the claimed methods are neither tied to a machine nor transform underlying subject matter. Without acquiescing to the merits of this rejection, the Applicants have amended each claim to clarify that one or more of the recited steps are performed by a processing system, which clearly comprises a machine and, therefore, qualifies as statutory subject matter. For at least this reason, the Applicants respectfully request that the rejections be withdrawn.

III. Objection to Claim 11

The Office Action objects to claim 11 on the basis of the recitation “at least one the existing financial accounts.” The Applicants have corrected this informality, as suggested in the Office Action, by amending the claim to recite “at least one of the existing financial accounts.” Accordingly, the Applicants respectfully request that the objection be withdrawn.

IV. Rejections Under 35 U.S.C. 112, First Paragraph

The Office Action rejects claims 1 – 4, 6, 8 – 11, 13 and 15 – 23 under 35 U.S.C. 112, first paragraph as allegedly failing to comply with the written description requirement. The Office Action contends that the addition of the recitations “computer,” “processor,” and “memory” in the claim amendments submitted on October 20, 2008 constitutes new matter “because the specification does not include any description of the claimed invention being performed on a computer or machine.” The Applicants respectfully disagree.

In support of this rejection, the Office Action acknowledges that the provisional patent application (to which the present application claims priority) does in fact include a computer, pointing to Page 17 of the provisional application and specifically highlighting the following portions of the specification:

“[t]he James/Foss system is a collection of integrated computer softwares and proprietary algorithms, methods of work, business processes, and risk models that enable the analysis/issuance/distribution/monitoring of an integrated credit product that extends credit through a host based stored value and an unsecured credit line”;

“[t]he James/Foss system gives the service provided the ability to underwrite and integrate an extension of credit to a customer through purchase/acquisition of a host based stored value or financial transaction vehicle”; and

Page 17 “further includes a drawing that has a processing system”.

Despite these acknowledgements, the Office Action argues that “[n]owhere does this document suggest that a computer or processor is used to perform the claimed invention (emphasis added).” Although the rationale for the rejection is not entirely clear to the Applicants (particularly given the acknowledgement of a computer description in the specification), it appears that the rationale for the rejection Office Action is either: (1) that the specific terms “computer”, “processor” and “memory” (as opposed to “processing system” and “integrated software”) used in the claims are not specifically recited as such in the specification; or (2) that, while a computer system is generally described and taught in the specification, the specification does not teach that the claimed invention may be implemented by the described computer system.

Regarding (1), the Applicants note that this would merely be a case of form over substance, and would ignore or distort the general knowledge of one skilled in the art. The Office Action concedes that the specification describes a computer with integrated computer software and a processing system. Regardless of the specific claim terms used to recite a computer implementation, one of ordinary skill in the art would readily appreciate with reference to the specification (including the above-referenced portions of the provisional patent application) that the integrated computer software and processing system would be implemented with a “computer”, “processor” and “memory” as those

terms are used in the claims. Thus, while it was not necessary to amend the claims to clarify this point, the Applicants have amended the claims to specifically mirror the computer language used in the specification. Specifically, the Applicants removed the terms “computer,” “processor” and “memory” and replaced them with the specific language in the specification (*i.e.*, a “processing system,” “integrated computer software” executed by the processing system, and the “integrated computer software” comprising the recited software components). In this regard, the claim language supporting a computer-implemented embodiment has explicit support in the specification.

Regarding (2), the Applicants respectfully submit that the computer description in the provisional patent application (the disclosure of which the Office Action concedes) is clearly tied to the systems, methods, and functionality disclosed in the specification and illustrated in the drawings. One of ordinary skill in the art would readily appreciate that the disclosed systems, methods, components, steps, functionality, *etc.* in the present application may be performed by the “processing system” and the “integrated software”. Referring again to Page 17, under the heading “Preliminary Patent Definitions”, the Applicants use the term “James/Foss system” in connection with the “processing system” and the “integrated computer software”. The “James/Foss system” is clearly intended as a term used to reference the Applicants’ invention because it a combination of the two co-inventors last names (Foss and James). Furthermore, in the drawing on Page 17, the term “unique method or systems” is clearly used as an alternative description of the “James/Foss system” and, therefore, similarly applies to the Applicants invention.

In this context, it would be readily appreciated by one of ordinary skill in the art that the Preliminary Patent Definitions section and the two drawings (Pages 17 and 18,

the latter of which is identical to FIG. 2 of the present application) generally apply to the Applicants invention. Accordingly, it would be readily appreciated that any descriptions of the Applicants invention (including the components illustrated in FIG. 2 and any other methods, functionality, steps, descriptions, *etc.* in the specification) could be embodied in the “integrated computer software” and executed by the “processing system”.

For at least these reasons, the Applicants respectfully submit that the pending claims do not recite “new matter” and that they fully comply with the written description. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

V. Rejections Under 35 U.S.C. 112, Second Paragraph

The Office Action rejects claims 1 – 4, 6 and 8 – 10 under 35 U.S.C. 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. To comply with this section, the Office Action suggests that the recitation “operable to” be replaced with the recitation “configured to” when referring to the functionality of a particular component. The Applicants have amended each claim to make this substitution. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

The Office Action rejects claims 1 – 4, 6, 8 – 11, 13 and 15 – 23 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. The Office Action argues that “it is unclear whether the aggregated data includes data of more than one account/customer.” The

Applicants have amended each independent claim, as indicated above, to further clarify that the data aggregation function applies to a plurality of existing financial accounts for a plurality of existing customers, as opposed to data of a single account/customer. Accordingly, the Applicants respectfully request that the rejection be withdrawn and the claims allowed.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims 1 – 4, 6, 8 – 11, 13, and 15 – 23 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (813) 382-9345.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence, including any items indicated as attached or included, is being electronically submitted to the United States Patent & Trademark Office via the Electronic Filing System on the date indicated below.

Date: December 17, 2009

/Adam E. Crall/

Signature